

Inglewood



California

OFFICE OF THE CITY CLERK

Yvonne Horton
CITY CLERK

October 10, 2007

Los Angeles County
Board of Supervisors
Room 383 Hall of Administration
500 W. Temple St.
Los Angeles, CA. 90012
Attn: Executive Officer

Dear Sirs:

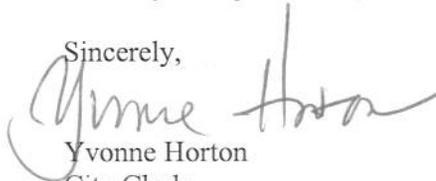
Enclosed is a certified copy of **Resolution No. 07-97** adopted by the Inglewood City Council on September 11, 2007, calling and giving notice of a Special Municipal Election and ordering that a measure be submitted to the voters pertaining to the City's Communications Users' Tax at the Election to be held on February 5, 2008.

Also enclosed are the following certified Resolutions:

1. **Resolution No. 07-108** adopted by the Inglewood City Council on October 2, 2007 – Submitting a measure to the qualified electors of the City with respect to determining whether the electorate favors establishment of an ordinance to prohibit the sale and use of fireworks.
2. **Resolution No. 07-111** adopted by the Inglewood City Council on October 9, 2007 - Requesting the Board of Supervisors of the County of Los Angeles to consolidate the Special Municipal Election with the Presidential Primary Election to be held on February 5, 2008 and that instructions be given to the County Elections Department to take any and all necessary steps for the holding of the consolidated election.

The City of Inglewood agrees to reimburse the County for any costs.

Sincerely,


Yvonne Horton
City Clerk

/yd

Enclosures

1 RESOLUTION NO. 07- 111

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 INGLEWOOD, CALIFORNIA REQUESTING THE BOARD OF
4 SUPERVISORS OF THE COUNTY OF LOS ANGELES TO
5 CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD
6 ON FEBRUARY 5, 2008, WITH THE PRESIDENTIAL PRIMARY
7 ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION
8 10403 OF THE ELECTIONS CODE

9 WHEREAS, the City Council of the City of Inglewood called a Special
10 Municipal Election to be held on February 5, 2008 to submit to the voters a ballot
11 question relating to the City's Communications Users' Tax (Utility Users' Tax);

12 WHEREAS, the County of Los Angeles will conduct its portion of the
13 Presidential Primary election to be held on the same date and within the city, the
14 precincts, polling places and election officers of the two elections will be the same,

15 WHEREAS, the County Election Department of the County of Los Angeles
16 will canvass the returns for the Special Municipal Election and that the election
17 will be held in all respects as if there were only one election;

18 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
19 INGLEWOOD DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS
20 FOLLOWS:

21 SECTION 1. That pursuant to the requirements of Section 10403 of
22 the Elections Code, the Board of Supervisors of the County of Los Angeles is
23 hereby requested to consent and agree to the consolidation of the Special
24 Municipal Election with the Presidential Primary Election on Tuesday, February
25 5, 2008 for the purpose of submission of a ballot question or questions to the voters
26 of the City.

27 \\\

28 \\\

1 SECTION 2. The form of the ballot question and the text of the
2 measure to be submitted to the voters shall be as set forth on the certified copy of
3 Resolution No. 07-97, attached hereto and incorporated herein by reference.

4 SECTION 3. The County Election Department is hereby authorized to
5 canvass the returns of the Special Municipal Election. The election shall be held
6 in all respects as if there were only one election and only one form of ballot shall be
7 used.

8 SECTION 4. The Board of Supervisors is hereby requested to issue
9 instructions to the County Election Department to take any and all steps
10 necessary for the holding of the consolidated election.

11 SECTION 5. The City of Inglewood recognizes that additional costs
12 will be incurred by the County by reason of this consolidation and agrees to
13 reimburse the County for any such costs upon presentation of a reasonably
14 detailed invoice.

15 SECTION 6. The City Clerk is hereby directed to file a certified copy
16 of this resolution with the Board of Supervisors and the County Election
17 Department of the County of Los Angeles forthwith, and not later than 5 p.m.
18 Friday, September 28, 2008.

19 SECTION 7. The City Clerk shall certify to the passage and adoption
20 of this resolution and enter it into the book of original resolutions.

21 PASSED, APPROVED and ADOPTED this 9th day of October, 2008.

22
23 ROOSEVELT E. DORN

Roosevelt Dorn, Mayor

24
25 ATTEST:

26 YVONNE HORTON
27 Yvonne Horton, City Clerk
28

1 RESOLUTION No. 07- 97

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 INGLEWOOD, CALIFORNIA, CALLING AND GIVING NOTICE OF A
4 SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY,
5 FEBRUARY 5, 2008; SUBMITTING A MEASURE TO THE
6 QUALIFIED ELECTORS OF THE CITY AT THAT ELECTION WITH
7 RESPECT TO THE CITY'S COMMUNICATIONS USERS' TAX
8 (UTILITY USERS' TAX)
9

10 WHEREAS, pursuant to Chapter 9 of Article 9 of the
11 Inglewood Municipal Code, the City currently levies a
12 Utility Users' Tax; and

13 WHEREAS, the City Council desires to reduce the rate
14 of the telecommunications portion of the Utility Users'
15 Tax; to convert the telecommunications portion of the
16 Utility Users' Tax to a special tax to fund public safety,
17 libraries and parks and recreation; and to make other
18 revisions to the method of calculating and collecting the
19 tax in order to reflect technological advances and changes
20 in federal law; and

21 WHEREAS, proposed Ordinance No 08-01, attached hereto
22 as Exhibit "A" (the "Ordinance") would implement these
23 proposed revisions to the tax; and

24 WHEREAS, pursuant to Article VIII of the City Charter,
25 Government Code Section 53724 and Election Code Section
26 9222, the City Council desires to submit the Ordinance to
27 the qualified electors of the City; and

28 \\\

1 **WHEREAS**, the City Council desires to call a special
2 municipal election for February 5, 2008 at which the
3 electors may consider the Ordinance; and

4 **WHEREAS**, the City Council desires to consolidate that
5 special municipal election with the statewide primary
6 election scheduled for the same date.

7 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF**
8 **INGLEWOOD, DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER**
9 **AS FOLLOWS:**

10 **SECTION 1.** The City Council finds and determines
11 that each of the findings set forth above is true and
12 correct.

13 **SECTION 2.** Pursuant to Article VII of the City
14 Charter, Government Code Section 53724 and Elections Code
15 Section 9222, there shall be and there is hereby called and
16 ordered held in the City of Inglewood, California, on
17 Tuesday, the 5th day of February, 2008, a special election
18 for the purposes of submitting the Ordinance to the
19 qualified voters of the City of Inglewood (the "Election").

20 **SECTION 3.** Pursuant to Government Code Section
21 53724(c), the City Council hereby declares its intent to
22 consolidate the Election with the statewide presidential
23 primary election to be held on February 5, 2008.

24 **SECTION 4.** The City Council proposes to impose the
25 special taxes set forth in the Ordinance. The proposed
26 type of tax, the rate of the tax, and the method of tax
27 collection are as set forth in Section 1 of the Ordinance.
28 As set forth in Section 5 of this Resolution, the proposal

1 will be presented to the voters on February 5, 2008 at the
2 Election.

3 **SECTION 5.** Pursuant to Elections Code Section
4 9222, the City Council hereby submits the Ordinance to the
5 voters at the Election and orders the following question to
6 be submitted to the voters at the Election:

7
8 Measure 08-___:
9 Shall Ordinance No. 08-01 be adopted to YES
10 reduce the rate of the City of Inglewood's _____
11 Communications Users' Tax from 10% to 9%; to
12 restrict the use of Communications Users' Tax
13 revenues to Public Safety, Library and Park &
14 Recreation Programs; and to revise the method
15 for calculating and collecting the NO
16 Communications Users' Tax (currently called _____
17 the Telephone Users' and Video Users' Taxes)
18 to reflect technological advances and changes
19 in federal law?

20 This question requires the approval of two-thirds of
21 those casting votes.

22 **SECTION 6.** The measure to be submitted to the
23 voters is attached to this Resolution as Exhibit "A" and
24 incorporated herein by this reference.

25 **SECTION 7.** In all particulars not recited in this
26 Resolution, the election shall be held and conducted as
27 provided by law for holding municipal elections.

28

1 **SECTION 8.** Notice of the time and place of holding
2 the election is hereby given, and the City Clerk is
3 authorized, instructed and directed to give further or
4 additional notice of the election, in time, form and manner
5 as required by law.

6 **SECTION 9.** Pursuant to California Elections Code
7 Section 9280, the City Council hereby directs the City
8 Clerk to transmit a copy of the measure to the City
9 Attorney. The City Attorney shall prepare an impartial
10 analysis of the measure, not to exceed 500 words in length,
11 showing the effect of the measure on the existing law and
12 the operation of the measure, and transmit such impartial
13 analysis to the City Clerk within ten (10) days of the
14 adoption of this Resolution.

15 **SECTION 10.** The City Clerk is authorized,
16 instructed and directed to procure and furnish any and all
17 official ballots, notices, printed matter and all supplies,
18 equipment and paraphernalia and secure required polling
19 places and workers that may be necessary in order to
20 properly and lawfully conduct the election.

21 **SECTION 11.** The polls for the Election shall be
22 open at 7:00 AM on the day of said election and shall
23 remain open continuously from said time until 8:00 PM of
24 the same day and shall then be closed, except as provided
25 in Section 14401 of the Elections Code.

26 **SECTION 12.** The City Council hereby requests the
27 Los Angeles County Registrar of Voters to provide all
28

1 EXHIBIT "A"

2 ORDINANCE NO. 08-01

3 AN ORDINANCE OF THE CITY OF INGLEWOOD ADDING ARTICLE
4 15 TO CHAPTER 9 OF THE INGLEWOOD MUNICIPAL CODE WITH
5 RESPECT TO A SPECIAL COMMUNICATION USERS' TAX TO FUND
6 PUBLIC SAFETY, LIBRARY AND PARK & RECREATION PROGRAMS.

7
8 THE PEOPLE OF THE CITY OF INGLEWOOD DO ORDAIN AS
9 FOLLOWS:

10 SECTION 1: Article 15 is hereby added to Chapter 9 of
11 the Inglewood Municipal Code, and it shall read as follows:

12
13 Article 15

14 SPECIAL COMMUNICATION USERS' TAX

15 9-330 Short Title.

16 9-331 Definitions.

17 9-332 Constitutional, Statutory, and Other Exemptions.

18 9-333 Communication Users' Tax.

19 9-334 Bundling Taxable Items with Non-taxable Items

20 9-335 Substantial Nexus / Minimum Contacts.

21 9-336 Duty to collect--Procedures.

22 9-337 Collection Penalties - Service Suppliers.

23 9-338 Actions to Collect.

24 9-339 Deficiency Determination and Assessment - Tax

25 Application Errors.

26 9-340 Administrative Remedy - Non-Paying Service Users.

27 9-341 Additional powers and duties of the Tax

28 Administrator.

1 9-342 Records.
2 9-343 Refunds.
3 9-344 Refunds for Senior Citizens.
4 9-345 Appeals.
5 9-346 Notice No Injunction/Writ of Mandate.
6 9-347 Notice of Changes to Ordinance.
7 9-348 Future Amendment to Cited Statute.
8 9-349 Independent Audit of Tax Collection, Exemption,
9 Remittance, and Expenditure.
10 9-350 Interaction with Prior Tax
11 9-351 Remedies Cumulative
12 9-352 No Increase in Tax Percentage or Change in
13 Methodology Without Voter Approval
14 9-353 Accountability and Use of Tax Proceeds
15
16 **9-330 Short Title**
17 This Article shall be known as the "Communication Users'
18 Tax Law" of the City.
19
20 **9-331 Definitions.**
21 The following words and phrases whenever used in this
22 Article shall be construed as defined in this section.
23 (a). "Ancillary telecommunication services" means
24 services that are associated with or incidental to the
25 provision, use or enjoyment of telecommunications services,
26 including but not limited to the following services:
27 (1) "Conference bridging service" means an
28 ancillary service that links two or more

1 participants of an audio or video conference call
2 and may include the provision of a telephone
3 number. Conference bridging service does not
4 include the telecommunications services used to
5 reach the conference bridge.

6 (2) "Detailed telecommunications billing
7 service" means an ancillary service of separately
8 stating information pertaining to individual
9 calls on a customer's billing statement.

10 (3) "Directory assistance" means an ancillary
11 service of providing telephone number
12 information, and/or address information.

13 (4) "Vertical service" means an ancillary
14 service that is offered in connection with one or
15 more telecommunications services, which offers
16 advanced calling features that allow customers to
17 identify callers and to manage multiple calls and
18 call connections, including conference bridging
19 services.

20 (5) "Voice mail service" means an ancillary
21 service that enables the customer to store, send
22 or receive recorded messages. Voice mail service
23 does not include any vertical services that the
24 customer may be required to have in order to
25 utilize the voice mail service

26 (b) "Ancillary video services" means services that
27 are associated with or incidental to the provision or
28 delivery of video services, including but not limited to

1 electronic program guide services, search functions, or
2 other interactive services or communications that are
3 associated with or incidental to the provision, use or
4 enjoyment of video programming.

5 (c). "Billing Address" shall mean the mailing address
6 of the service user where the service supplier submits
7 invoices or bills for payment by the customer.

8 (d). "City" shall mean the City of Inglewood.

9 (e). "Communication Services" means:
10 "telecommunication services", "ancillary telecommunication
11 services", "video services" and "ancillary video services".

12 (f). "Mobile Telecommunications Service" has the same
13 meaning and usage as set forth in the Mobile
14 Telecommunications Sourcing Act (4 U.S.C. Section 124) and
15 the regulations thereunder.

16 (g). "Month" shall mean a calendar month.

17 (h). "Paging service" means a "telecommunications
18 service" that provides transmission of coded radio signals
19 for the purpose of activating specific pagers; such
20 transmissions may include messages and/or sounds.

21 (i). "Person" shall mean, without limitation, any
22 natural individual, firm, trust, common law trust, estate,
23 partnership of any kind, association, syndicate, club,
24 joint stock company, joint venture, limited liability
25 company, corporation (including foreign, domestic, and non-
26 profit), municipal district or municipal corporation (other
27 than the City) cooperative, receiver, trustee, guardian, or
28 other representative appointed by order of any court.

1 (j). "Place of Primary Use" means the street address
2 representative of where the customer's use of the
3 communications service primarily occurs, which must be the
4 residential street address or the primary business street
5 address of the customer.

6 (k). "Post-paid telecommunication service" means the
7 telecommunication service obtained by making a payment on a
8 communication-by-communication basis either through the use
9 of a credit card or payment mechanism such as a bank card,
10 travel card, credit card, or debit card, or by charge made
11 to a service number which is not associated with the
12 origination or termination of the telecommunication
13 service.

14 (l). "Prepaid telecommunication service" means the
15 right to access telecommunication services, which must be
16 paid for in advance and which enables the origination of
17 communications using an access number or authorization
18 code, whether manually or electronically dialed, and that
19 is sold in predetermined units or dollars of which the
20 number declines with use in a known amount.

21 (m). "Private telecommunication service" means a
22 telecommunication service that entitles the customer to
23 exclusive or priority use of a communications channel or
24 group of channels between or among termination points,
25 regardless of the manner in which such channel or channels
26 are connected, and includes switching capacity, extension
27 lines, stations, and any other associated services that are
28 provided in connection with the use of such channel or

1 channels. A communications channel is a physical or
2 virtual path of communications over which signals are
3 transmitted between or among customer channel termination
4 points (i.e., the location where the customer either inputs
5 or receives the communications).

6 (n). "Service Address" means either:

7 (1) The location of the service user's
8 communication equipment from which the
9 communication originates or terminates,
10 regardless of where the communication is billed
11 or paid; or,

12 (2) If the location in subsection (1) of this
13 definition is unknown (e.g., mobile
14 telecommunications service or VoIP service), the
15 service address means the location of the service
16 user's place of primary use.

17 (3) For prepaid telecommunication service,
18 "service address" means the location associated
19 with the service number.

20 (o). "Service Supplier" shall mean any entity or
21 person, including the City, that provides communication
22 service to a user of such service within the City.

23 (p). "Service User" shall mean a person required to
24 pay a tax imposed under the provisions of this Article.

25 (q). "State" shall mean the State of California.

26 (r). "Tax Administrator" means the Finance Director of
27 the city or his or her designee.

28

1 (s). "Telecommunications services" means the
2 transmission, conveyance, or routing of voice, data, audio,
3 video, or any other information or signals to a point, or
4 between or among points, whatever the technology used. The
5 term "telecommunications services" includes such
6 transmission, conveyance, or routing in which computer
7 processing applications are used to act on the form, code
8 or protocol of the content for purposes of transmission,
9 conveyance or routing without regard to whether such
10 services are referred to as voice over internet protocol
11 (VoIP) services or are classified by the Federal
12 Communications Commission as enhanced or value added, and
13 includes video and/or data services that is functionally
14 integrated with "telecommunication services".
15 "Telecommunications services" include, but are not limited
16 to the following services, regardless of the manner or
17 basis on which such services are calculated or billed:
18 ancillary telecommunication services; mobile
19 telecommunications service; prepaid telecommunication
20 service (to the extent that it is practicable for the
21 service supplier to collect the correct tax imposed under
22 this Chapter from the service supplier); post-paid
23 telecommunication service; private telecommunication
24 service; paging service; 800 service (or any other toll-
25 free numbers designated by the Federal Communications
26 Commission); 900 service (or any other similar numbers
27 designated by the Federal Communications Commission for
28

1 services whereby subscribers who call in to pre-recorded or
2 live service); and value-added non-voice data service.

3 (t) "Video Programming" means those programming
4 services commonly provided to subscribers by a "video
5 service supplier" including but not limited to basic
6 services, premium services, audio services, video games,
7 pay-per-view services, video on demand, origination
8 programming, or any other similar services, regardless of
9 the content of such video programming, or the technology
10 used to deliver such services, and regardless of the manner
11 or basis on which such services are calculated or billed.

12 (u) "Video Services" means any and all services
13 related to the providing, storing or delivering of "video
14 programming" (including origination programming and
15 programming using Internet Protocol, e.g., IP-TV and IP-
16 Video) using one or more channels by a "video service
17 supplier", regardless of the technology used to deliver,
18 store or provide such services, and regardless of the
19 manner or basis on which such services are calculated or
20 billed, and includes data services, "telecommunication
21 services", or interactive communication services that are
22 functionally integrated with "video services".

23 (v) "Video Service Supplier" means any person,
24 company, or service which provides or sells one or more
25 channels of video programming, or provides or sells the
26 capability to receive one or more channels of video
27 programming, including any communications that are
28 ancillary, necessary or common to the provision, use or

1 enjoyment of the video programming, to or from a business
2 or residential address in the City, where some fee is paid,
3 whether directly or included in dues or rental charges for
4 that service, whether or not public rights-of-way are
5 utilized in the delivery of the video programming or
6 communications. A "video service supplier" includes, but
7 is not limited to, multichannel video programming
8 distributors [as defined in 47 U.S.C.A. Section 522(13)];
9 open video systems (OVS) suppliers; and suppliers of cable
10 television; master antenna television; satellite master
11 antenna television; multichannel multipoint distribution
12 services (MMDS); video services using internet protocol
13 (e.g., IP-TV and IP-Video, which provide, among other
14 things, broadcasting and video on demand), direct broadcast
15 satellite to the extent federal law permits taxation of its
16 video services, now or in the future; and other suppliers
17 of video programming or communications (including two-way
18 communications), whatever their technology.

19

20 **9-332 Constitutional, statutory, and other exemptions.**

21 (a) Nothing in this Article shall be construed as
22 imposing a tax upon any person or service when the
23 imposition of such tax upon such person or service would be
24 in violation of a federal or state statute, the
25 Constitution of the United States or the Constitution of
26 the State.

27 (b) Any service user that is exempt from the tax
28 imposed by this Article pursuant to subsection (a) of this

1 section shall file an application with the Tax
2 Administrator for an exemption; provided, however, this
3 requirement shall not apply to a service user that is a
4 state or federal agency or subdivision with a commonly
5 recognized name for such service. Said application shall be
6 made upon a form approved by the Tax Administrator and
7 shall state those facts, declared under penalty of perjury,
8 which qualify the applicant for an exemption, and shall
9 include the names of all communication service suppliers
10 serving that service user. If deemed exempt by the Tax
11 Administrator, such service user shall give the Tax
12 Administrator timely written notice of any change in
13 communication service suppliers so that the Tax
14 Administrator can properly notify the new communication
15 service supplier of the service user's tax exempt status. A
16 service user that fails to comply with this section shall
17 not be entitled to a refund of communication users' taxes
18 collected and remitted to the Tax Administrator from such
19 service user as a result of such noncompliance.

20 The decision of the Tax Administrator may be appealed
21 pursuant to Section 9-345 of this Article. Filing an
22 application with the Tax Administrator and appeal to the
23 City Administrator pursuant to Section 9-345 of this
24 Article is a prerequisite to a suit thereon.

25 (c). The City Council may, by resolution, establish
26 one or more classes of persons or one or more classes of
27 utility service otherwise subject to payment of a tax
28 imposed by this Article and provide that such classes of

1 persons or service shall be exempt, in whole or in part
2 from such tax for a specified period of time.

3 (d). The Tax Administrator shall prepare a list of
4 the persons exempt from the provisions of this Article by
5 virtue of this section and furnish a copy thereof to each
6 service supplier.

7

8 **9-333 Communication Users' Tax.**

9 (a). There is hereby imposed a tax upon every person
10 in the City using communication services. The maximum tax
11 imposed by this section shall be at the rate of nine
12 percent (9%) of the charges made for such services and
13 shall be collected from the service user by the
14 communication services supplier or its billing agent.
15 There is a rebuttable presumption that communication
16 services, which are billed to a billing or service address
17 in the City, are used, in whole or in part, within the
18 City's boundaries, and such services are subject to
19 taxation under this Article. If the billing address of the
20 service user is different from the service address, the
21 service address of the service user shall be used for
22 purposes of imposing the tax. As used in this Section,
23 the term "charges" shall include the value of any other
24 services, credits, property of every kind or nature, or
25 other consideration provided by the service user in
26 exchange for the communication services.

27 (b). "Mobile Telecommunications Service" shall be
28 sourced in accordance with the sourcing rules set forth in

1 the Mobile Telecommunications Sourcing Act (4 U.S.C.
2 Section 124). The Tax Administrator may issue and
3 disseminate to communication service suppliers, which are
4 subject to the tax collection requirements of this Article,
5 sourcing rules for the taxation of other communication
6 services, including but not limited to post-paid
7 communication services, prepaid communication services, and
8 private communication services, provided that such rules
9 are based upon custom and common practice that further
10 administrative efficiency and minimize multi-jurisdictional
11 taxation.

12 (c). The Tax Administrator may issue and disseminate
13 to communication service suppliers, which are subject to
14 the tax collection requirements of this Article, an
15 administrative ruling identifying those communication
16 services, or charges therefore, that are subject to or not
17 subject to the tax of subsection (a) above.

18 (d). As used in this section, the term
19 "telecommunication services" shall include, but are not
20 limited to charges for: connection, reconnection,
21 termination, movement, or change of telecommunication
22 services; late payment fees; detailed billing; central
23 office and custom calling features (including but not
24 limited to call waiting, call forwarding, caller
25 identification and three-way calling); voice mail and other
26 messaging services; directory assistance; access and line
27 charges; universal service charges; regulatory,
28 administrative and other cost recovery charges; local

1 number portability charges; and text and instant messaging.
2 "Telecommunication services" shall not include digital
3 downloads that are not "ancillary telecommunications
4 services", such as books, music, ringtones, games, and
5 similar digital products.

6 (e) Charges for communication services (video) shall
7 include, but are not limited to, charges for the following:

- 8 (1) regulatory fees and surcharges, franchise
9 fees and access fees (PEG);
- 10 (2) initial installation of equipment necessary
11 for provision and receipt of communication
12 services;
- 13 (3) late fees, collection fees, bad debt
14 recoveries, and return check fees;
- 15 (4) activation fees, reactivation fees, and
16 reconnection fees;
- 17 (5) all video programming services (e.g., basic
18 services, premium services, audio services, video
19 games, pay-per-view services, or on demand
20 programming);
- 21 (6) ancillary programming services (e.g.,
22 electronic program guide services, search
23 functions, or other interactive services or
24 communications that are ancillary, necessary or
25 common to the use or enjoyment of the video
26 programming);
- 27 (7) equipment leases (e.g., converters, remote
28 devices); and,

1 (8) service calls, service protection plans,
2 name changes, changes of services, and special
3 services.

4 (f). To prevent actual multi-jurisdictional taxation
5 of communication services subject to tax under this
6 section, any service user, upon proof to the Tax
7 Administrator that the service user has previously paid the
8 same tax in another state or local jurisdiction on such
9 communication services, shall be allowed a credit against
10 the tax imposed to the extent of the amount of such tax
11 legally imposed in such other state or local jurisdiction;
12 provided, however, the amount of credit shall not exceed
13 the tax owed to the City under this section.

14 (h). The tax on communication services imposed by this
15 section shall be collected from the service user by the
16 service supplier. The amount of tax collected in one (1)
17 month shall be remitted to the Tax Administrator, and must
18 be received by the Tax Administrator on or before the
19 twentieth (20th) day of the following month.

20

21 **9-334 Bundling Taxable Items with Non-Taxable Items.**

22 Except as otherwise provided by applicable federal or state
23 law, if any nontaxable charges are combined with and not
24 separately stated from taxable service charges on the
25 customer bill or invoice of a service supplier, the
26 combined charge is subject to tax unless the service
27 supplier identifies, by reasonable and verifiable
28 standards, the portions of the combined charge that are

1 nontaxable and taxable through the service supplier's books
2 and records kept in the regular course of business, and in
3 accordance with generally accepted accounting principles,
4 and not created and maintained for tax purposes. The
5 service supplier has the burden of proving the proper
6 apportionment of taxable and non-taxable charges.

7

8 **9-335 Substantial Nexus / Minimum Contacts.**

9 For purposes of imposing a tax or establishing a duty to
10 collect and remit a tax under this Article, "substantial
11 nexus" and "minimum contacts" shall be construed broadly in
12 favor of the imposition, collection and/or remittance of
13 the communication users' tax to the fullest extent
14 permitted by state and federal law, and as it may change
15 from time to time by judicial interpretation or by
16 statutory enactment. Any communication service (including
17 VoIP) used by a person with a service address in the City,
18 which service is capable of terminating a call to another
19 person on the general telephone network, shall be subject
20 to a rebuttable presumption that "substantial nexus/minimum
21 contacts" exists for purposes of imposing a tax, or
22 establishing a duty to collect and remit a tax, under this
23 Article. A service supplier shall be deemed to have
24 sufficient activity in the City for tax collection and
25 remittance purposes if its activities include, but are not
26 limited to, any of the following: maintains or has within
27 the City, directly or through an agent or subsidiary, a
28 place of business of any nature; solicits business in the

1 City by employees, independent contractors, resellers,
2 agents or other representatives; solicits business in the
3 City on a continuous, regular, seasonal or systematic basis
4 by means of advertising that is broadcast or relayed from a
5 transmitter with the City or distributed from a location
6 with the City; or advertises in newspapers or other
7 periodicals printed and published within the City or
8 through materials distributed in the City by means other
9 than the United States mail.

10 The City shall make available, upon request, an accurate
11 description of its jurisdictional boundaries based on
12 street addresses and/or ZIP Plus Four, in an electronic
13 format. If a service supplier relies upon such information
14 provided by City, it shall not be responsible for any
15 errors in taxation that may result.

16

17 **9-336 Duty to Collect--Procedures.**

18 (a) Collection by Service Suppliers. The duty of
19 service suppliers to collect and remit the taxes imposed by
20 the provisions of this Article shall be performed as
21 follows:

22 (1) The tax shall be collected by service
23 suppliers insofar as practicable at the same time
24 as, and along with, the collection of the charges
25 made in accordance with the regular billing
26 practice of the service supplier. Where the
27 amount paid by a service user to a service
28 supplier is less than the full amount of the

1 charge and tax which was accrued for the billing
2 period, a proportionate share of both the charge
3 and the tax shall be deemed to have been paid. In
4 those cases where a service user has notified the
5 service supplier of refusal to pay the tax
6 imposed on said charges, Section 9-340 shall
7 apply.

8 (2) The duty of a service supplier to collect
9 the tax from a service user shall commence with
10 the beginning of the first regular billing period
11 applicable to the service user where all charges
12 normally included in such regular billing are
13 subject to the provisions of this Article. Where
14 a service user receives more than one billing,
15 one or more being for different periods than
16 another, the duty to collect shall arise
17 separately for each billing period.

18 (b) Filing Return and Payment. Each person required
19 by this Article to remit a tax shall file a return to the
20 Tax Administrator, on forms approved by the Tax
21 Administrator, on or before the due date. The full amount
22 of the tax collected shall be included with the return and
23 filed with the Tax Administrator. The Tax Administrator is
24 authorized to require such additional information as he or
25 she deems necessary to determine if the tax is being
26 levied, collected, and remitted in accordance with this
27 Article. Returns are due immediately upon cessation of
28 business for any reason. Pursuant to Revenue and Tax Code

1 Section 7284.6, the Tax Administrator, and its agents,
2 shall maintain such filing returns as confidential
3 information that is exempt from the disclosure provisions
4 of the Public Records Act.

5

6 **9-337 Collection Penalties - Service Suppliers.**

7 (a) Taxes collected from a service user are delinquent
8 if not received by the Tax Administrator on or before the
9 due date. Should the due date occur on a weekend or legal
10 holiday, the return must be received by the Tax
11 Administrator on the first regular working day following
12 the weekend or legal holiday. A direct deposit, including
13 electronic fund transfers and other similar methods of
14 electronically exchanging monies between financial
15 accounts, made by a service supplier in satisfaction of its
16 obligations under this subsection shall be considered
17 timely if the transfer is initiated on or before the due
18 date, and the transfer settles into the City's account on
19 the following business day.

20 (b) If the person required to collect and/or remit the
21 communication users' tax fails to collect the tax (by
22 failing to properly assess the tax on one or more services
23 or charges on the customer's billing) or fails to remit the
24 tax collected on or before the due date, the Tax
25 Administrator shall attach a penalty for such delinquencies
26 or deficiencies at the rate of fifteen (15%) percent of the
27 total tax that is delinquent or deficient in the
28 remittance, and shall pay interest at the rate of and

1 75/100ths (0.75%) percent per month, or any fraction
2 thereof, on the amount of the tax, exclusive of penalties,
3 from the date on which the remittance first became
4 delinquent, until paid.

5 (c) The Tax Administrator shall have the power to
6 impose additional penalties upon persons required to
7 collect and remit taxes pursuant to the provisions of this
8 Article for fraud or gross negligence in reporting or
9 remitting at the rate of fifteen (15%) percent of the
10 amount of the tax collected and/or required to be remitted,
11 or as recomputed by the Tax Administrator.

12 (d) For collection purposes only, every penalty
13 imposed and such interest that is accrued under the
14 provisions of this section shall become a part of the tax
15 herein required to be paid.

16 (e). Notwithstanding the foregoing, the Tax
17 Administrator may, in his or her discretion, modify the due
18 dates of this Article to be consistent with any uniform
19 standards or procedures that are mutually agreed upon by
20 other public agencies imposing a utility users tax, or
21 otherwise legally established, to create a central payment
22 location or mechanism.

23

24 **9-338 Actions to Collect.**

25 Any tax required to be paid by a service user under the
26 provisions of this Article shall be deemed a debt owed by
27 the service user to the City. Any such tax collected from a
28 service user which has not been remitted to the Tax

1 Administrator shall be deemed a debt owed to the City by
2 the person required to collect and remit and shall no
3 longer be a debt of the service user. Any person owing
4 money to the City under the provisions of this Article
5 shall be liable to an action brought in the name of the
6 City for the recovery of such amount, including penalties
7 and interest as provided for in this Article, along with
8 any collection costs incurred by the City as a result of
9 the person's noncompliance with this Article, including,
10 but not limited to, reasonable attorneys fees. Any tax
11 required to be collected by a service supplier or owed by a
12 service user is an unsecured priority excise tax obligation
13 under 11 U.S.C.A. Section 507(a) (8) (C).

14

15 **9-339 Deficiency Determination and Assessment - Tax**
16 **Application Errors.**

17 (a) The Tax Administrator shall make a deficiency
18 determination if he or she determines that any service user
19 or service supplier required to pay or collect taxes
20 pursuant to the provisions of this Article has failed to
21 pay, collect, and/or remit the proper amount of tax by
22 improperly or failing to apply the tax to one or more
23 taxable services or charges. Nothing herein shall require
24 that the Tax Administrator institute proceedings under this
25 Section 9-339 if, in the opinion of the Tax Administrator,
26 the cost of collection or enforcement likely outweighs the
27 tax benefit.

28

1 (b) The Tax Administrator shall mail a notice of such
2 deficiency determination to the person or entity allegedly
3 owing the tax, which notice shall refer briefly to the
4 amount of the taxes owed, plus interest at the rate of
5 75/100ths (0.75%) percent per month, or any fraction
6 thereof, on the amount of the tax from the date on which
7 the tax should have been received by the City. Within
8 fourteen (14) calendar days after the date of service of
9 such notice, the person or entity allegedly owing the tax
10 may request in writing to the Tax Administrator for a
11 hearing on the matter.

12 (c) If the person or entity allegedly owing the tax
13 fails to request a hearing within the prescribed time
14 period, the amount of the deficiency determination shall
15 become a final assessment, and shall immediately be due and
16 owing to the City. If such person or entity requests a
17 hearing, the Tax Administrator shall cause the matter to be
18 set for hearing, which shall be scheduled within thirty
19 (30) days after receipt of the written request for hearing.
20 Notice of the time and place of the hearing shall be mailed
21 by the Tax Administrator to such person at least ten (10)
22 calendar days prior to the hearing, and, if the Tax
23 Administrator desires said person to produce specific
24 records at such hearing, such notice may designate the
25 records requested to be produced.

26 (d) At the time fixed for the hearing, the Tax
27 Administrator shall hear all relevant testimony and
28 evidence, including that of any other interested parties.

1 At the discretion of the Tax Administrator, the hearing may
2 be continued from time to time for the purpose of allowing
3 the presentation of additional evidence. Within a
4 reasonable time following the conclusion of the hearing,
5 the Tax Administrator shall issue a final assessment (or
6 non-assessment), thereafter, by confirming, modifying or
7 rejecting the original deficiency determination, and shall
8 mail a copy of such final assessment to person or entity
9 owing the tax. The decision of the Tax Administrator may
10 be appealed pursuant to Section 9-345 of this Article.
11 Filing an application with the Tax Administrator and appeal
12 to the City Manager pursuant to Section 9-345 of this
13 Article is a prerequisite to a suit thereon.

14 (e) Payment of the final assessment shall become
15 delinquent if not received by the Tax Administrator on or
16 before the thirtieth (30th) day following the date of
17 receipt of the notice of final assessment. The penalty for
18 delinquency shall be fifteen percent (15%) on the total
19 amount of the assessment, along with interest at the rate
20 of 75/100ths (0.75%) percent per month, or any fraction
21 thereof, on the amount of the tax, exclusive of penalties,
22 from the date of delinquency, until paid. The applicable
23 statute of limitations regarding a claim by the City
24 seeking payment of a tax assessed under this Article shall
25 commence from the date of delinquency as provided in this
26 subsection (e).

27 (f) All notices under this section may be sent by
28 regular mail, postage prepaid, and shall be deemed received

1 on the third calendar day following the date of mailing, as
2 established by a proof of mailing.

3

4 **9-340 Administrative Remedy - Non-Paying Service Users.**

5 (a) Whenever the Tax Administrator determines that a
6 service user has deliberately withheld the amount of the
7 tax owed by the service user from the amounts remitted to a
8 person required to collect the tax, or whenever the Tax
9 Administrator deems it in the best interest of the City, he
10 or she may relieve such person of the obligation to collect
11 the taxes due under this Article from certain named service
12 users for specific billing periods. To the extent the
13 service user has failed to pay the amount of tax owed for a
14 period of two (2) or more billing periods, the service
15 supplier shall be relieved of the obligation to collect
16 taxes due. The service supplier shall provide the City with
17 the names and addresses of such service users and the
18 amounts of taxes owed under the provisions of this Article.
19 Nothing herein shall require that the Tax Administrator
20 institute proceedings under this Section 9-340 if, in the
21 opinion of the Tax Administrator, the cost of collection or
22 enforcement likely outweighs the tax benefit.

23 (b) In addition to the tax owed, the service user
24 shall pay a delinquency penalty at the rate of fifteen
25 percent (15%) of the total tax that is owed, and shall pay
26 interest at the rate of 75/100ths (0.75%) percent per
27 month, or any fraction thereof, on the amount of the tax,
28 exclusive of penalties, from the due date, until paid.

1 (c) The Tax Administrator shall notify the non-paying
2 service user that the Tax Administrator has assumed the
3 responsibility to collect the taxes due for the stated
4 periods and demand payment of such taxes, including
5 penalties and interest. The notice shall be served on the
6 service user by personal delivery or by deposit of the
7 notice in the United States mail, postage prepaid,
8 addressed to the service user at the address to which
9 billing was made by the person required to collect the tax;
10 or, should the service user have a change of address, to
11 his or her last known address.

12 (d) If the service user fails to remit the tax to the
13 Tax Administrator within thirty (30) days from the date of
14 the service of the notice upon him or her, the Tax
15 Administrator may impose an additional penalty of fifteen
16 percent (15%) of the amount of the total tax that is owed.

17

18 **9-341 Additional Powers and Duties of the Tax**
19 **Administrator.**

20 (a) The Tax Administrator shall have the power and
21 duty, and is hereby directed, to enforce each and all of
22 the provisions of this Article.

23 (b) The Tax Administrator may adopt administrative rules
24 and regulations consistent with provisions of this Article for
25 the purpose of interpreting, clarifying, carrying out and
26 enforcing the payment, collection and remittance of the taxes
27 herein imposed. The administrative ruling shall not impose a new
28 tax, revise an existing tax methodology as stated in this

1 Section, or increase an existing tax, except as allowed by
2 *California Government Code Section 53750(h)(2)*. A copy of such
3 administrative rules and regulations shall be on file in the Tax
4 Administrator's office.

5 (c) Upon a proper showing of good cause, the Tax
6 Administrator may make administrative agreements, with
7 appropriate conditions, to vary from the strict
8 requirements of this Article and thereby: (1) conform to
9 the billing procedures of a particular service supplier so
10 long as said agreements result in the collection of the tax
11 in conformance with the general purpose and scope of this
12 Article; or, (2) to avoid a hardship where the
13 administrative costs of collection and remittance greatly
14 outweigh the tax benefit. A copy of each such agreement
15 shall be on file in the Tax Administrator's office, and are
16 voidable by the Tax Administrator or the City at any time.

17 (d) The Tax Administrator may conduct an audit, to
18 ensure proper compliance with the requirements of this
19 Article, of any person required to collect and/or remit a
20 tax pursuant to this Article. The Tax Administrator shall
21 notify said person of the initiation of an audit in
22 writing. In the absence of fraud or other intentional
23 misconduct, the audit period of review shall not exceed a
24 period of three (3) years next preceding the date of
25 receipt of the written notice by said person from the Tax
26 Administrator. Upon completion of the audit, the Tax
27 Administrator may make a deficiency determination pursuant
28 to Section 9-339 of this Article for all taxes (and

1 applicable penalties and interest) owed and not paid, as
2 evidenced by information provided by such person to the Tax
3 Administrator. If said person is unable or unwilling to
4 provide sufficient records to enable the Tax Administrator
5 to verify compliance with this Article, the Tax
6 Administrator is authorized to make a reasonable estimate
7 of the deficiency. Said reasonable estimate shall be
8 entitled to a rebuttable presumption of correctness.

9 (e) Upon receipt of a written request of a taxpayer,
10 and for good cause, the Tax Administrator may extend the
11 time for filing any statement required pursuant to this
12 Article for a period of not to exceed forty-five (45) days,
13 provided that the time for filing the required statement
14 has not already passed when the request is received. No
15 penalty for delinquent payment shall accrue by reason of
16 such extension. Interest shall accrue during said
17 extension at the rate of 75/100ths (0.75%) percent per
18 month, prorated for any portion thereof.

19 (f) The Tax Administrator shall determine the
20 eligibility of any person who asserts a right to exemption
21 from, or a refund of, the tax imposed by this Article.

22 (g) Notwithstanding any provision in this Article to
23 the contrary, the Tax Administrator may waive any penalty
24 or interest imposed upon a person required to collect
25 and/or remit for failure to collect the tax imposed by this
26 Article if the non-collection occurred in good faith. In
27 determining whether the non-collection was in good faith,
28

1 the Tax Administrator shall take into consideration
2 industry practice or other precedence.

3
4 **9-342 Records.**

5 (a) It shall be the duty of every person required to
6 collect and/or remit to the City any tax imposed by this
7 Article to keep and preserve, for a period of at least
8 three (3) years, all records as may be necessary to
9 determine the amount of such tax as he/she may have been
10 liable for the collection of and remittance to the Tax
11 Administrator, which records the Tax Administrator shall
12 have the right to inspect at a reasonable time.

13 (b) The City may issue an administrative subpoena to
14 compel a person to deliver, to the Tax Administrator,
15 copies of all records deemed necessary by the Tax
16 Administrator to establish compliance with this Article,
17 including the delivery of records in a common electronic
18 format on readily available media if such records are kept
19 electronically by the person in the usual and ordinary
20 course of business. As an alternative to delivering the
21 subpoenaed records to the Tax Administrator on or before
22 the due date provided in the administrative subpoena, such
23 person may provide access to such records outside the City
24 on or before the due date, provided that such person shall
25 reimburse the City for all reasonable travel expenses
26 incurred by the City to inspect those records, including
27 travel, lodging, meals, and other similar expenses, but
28

1 excluding the normal salary or hourly wages of those
2 persons designated by the City to conduct the inspection.

3 (c) The Tax Administrator is authorized to execute a
4 non-disclosure agreement approved by the City Attorney to
5 protect the confidentiality of customer information
6 pursuant to California Revenue and Tax Code Sections 7284.6
7 and 7284.7.

8 (d) If a service supplier uses a billing agent or
9 billing aggregator to bill, collect, and/or remit the tax,
10 the service supplier shall: i) provide to the Tax
11 Administrator the name, address and telephone number of
12 each billing agent and billing aggregator currently
13 authorized by the service supplier to bill, collect, and/or
14 remit the tax to the City; and, ii) upon request of the Tax
15 Administrator, deliver, or effect the delivery of, any
16 information or records in the possession of such billing
17 agent or billing aggregator that, in the opinion of the Tax
18 Administrator, is necessary to verify the proper
19 application, calculation, collection and/or remittance of
20 such tax to the City.

21 (e) If any person subject to record-keeping under this
22 section unreasonably denies the Tax Administrator access to
23 such records, or fails to produce the information requested
24 in an administrative subpoena within the time specified,
25 then the Tax Administrator may impose a penalty of \$500 on
26 such person for each day following: i) the initial date
27 that the person refuses to provide such access; or, ii) the
28 due date for production of records as set forth in the

1 administrative subpoena. This penalty shall be in addition
2 to any other penalty imposed under this Article.

3

4 **9-343 Refunds.**

5 Whenever the amount of any tax has been overpaid or paid
6 more than once or has been erroneously or illegally
7 collected or received by the Tax Administrator under this
8 Article from a person or service supplier, it may be
9 refunded as provided in this section:

10 (a) The Tax Administrator may refund any tax that has
11 been overpaid or paid more than once or has been
12 erroneously or illegally collected or received by the Tax
13 Administrator under this Article from a person or service
14 supplier, provided that no refund shall be paid under the
15 provisions of this section unless the claimant or his or
16 her guardian, conservator, executor, or administrator has
17 submitted a written claim to the Tax Administrator within
18 one year of the overpayment or erroneous or illegal
19 collection of said tax. Such claim must clearly establish
20 claimant's right to the refund by written records showing
21 entitlement thereto. Nothing herein shall permit the filing
22 of a claim on behalf of a class or group of taxpayers
23 unless each member of the class has submitted a written
24 claim under penalty of perjury as provided by this
25 subsection.

26 (b) The filing of a written claim pursuant to
27 Government Code Section 935 is a prerequisite to any suit
28 thereon. Any action brought against the City pursuant to

1 this section shall be subject to the provisions of
2 Government Code Sections 945.6 and 946. The Tax
3 Administrator, or the City Council where the claim is in
4 excess of five thousand dollars (\$5,000), shall act upon
5 the refund claim within the time period set forth in
6 Government Code Section 912.4. If the Tax
7 Administrator/City Council fails or refuses to act on a
8 refund claim within the time prescribed by Government
9 Section 912.4, the claim shall be deemed to have been
10 rejected by the City Council on the last day of the period
11 within which the City Council was required to act upon the
12 claim as provided in Government Code Section 912.4. The Tax
13 Administrator shall give notice of the action in a form
14 which substantially complies with that set forth in
15 Government Code Section 913.

16 (c). Notwithstanding the notice provisions of
17 subsection (a) of this Section, the Tax Administrator may,
18 at his or her discretion, give written permission to a
19 service supplier, who has collected and remitted any amount
20 of tax in excess of the amount of tax imposed by this
21 Article, to claim credit for such overpayment against the
22 amount of tax which is due the City upon a subsequent
23 monthly return(s) to the Tax Administrator, provided that:
24 i) such credit is claimed in a return dated no later than
25 one year from the date of overpayment or erroneous
26 collection of said tax; ii) the Tax Administrator is
27 satisfied that the underlying basis and amount of such
28 credit has been reasonably established; and, iii) in the

1 case of an overpayment by a service user to the service
2 supplier that has been remitted to the City, the Tax
3 Administrator has received proof, to his or her
4 satisfaction, that the overpayment has been refunded by the
5 service supplier to the service user in an amount equal to
6 the requested credit.

7 (d) Notwithstanding subsections (a) through (c) above,
8 a service supplier shall be entitled to take any
9 overpayment as a credit against an underpayment whenever
10 such overpayment has been received by the City within the
11 three (3) years next preceding a deficiency determination
12 or assessment by the Tax Administrator in connection with
13 an audit instituted by the Tax Administrator pursuant to
14 Section 9-341(d). A service supplier shall not be entitled
15 to said credit unless it clearly establishes the right to
16 the credit by written records showing entitlement thereto.
17 Under no circumstances shall an overpayment taken as a
18 credit against an underpayment pursuant to this subsection
19 qualify a service supplier for a refund to which it would
20 not otherwise be entitled under the one-year written claim
21 requirement of this section.

22 **9-344 Refunds - Senior Citizens.**

23 (a) The tax imposed by this Article 15 on charges
24 made for communication services to the personal residence
25 of any person who is sixty-two years of age or older shall
26 be subject to refund following payment provided that:

27 (1) The gross annual income of such person during
28 the year such taxes were paid was less than

1 sixteen thousand dollars (\$16,000.00), or in the
2 case of a husband and wife living together in
3 such residence, their combined gross annual
4 income was less than sixteen thousand dollars
5 (\$16,000.00).

6 (2) If applicant resides in a duplex or in a
7 multiple dwelling and a utility billing involves
8 service to more units than the one occupied by
9 the applicant, then the refund shall be limited
10 pro rata to the portion attributable to such unit
11 utilized as applicant's residence.

12 (3) If applicant has shared a residence with
13 parents or adult sons or daughters during the
14 entire period subject to said utility tax,
15 applicant shall be eligible for a pro rata refund
16 of the utility tax levied on utility service to
17 such residence computed upon the basis of the
18 applicant's total income in relation to the total
19 income of all such related persons.

20 (b) Persons eligible for refund of communication
21 users' taxes pursuant to Section 9-88.0 may make
22 application for refund of such taxes paid during the
23 immediately preceding year by duly completing an
24 application form provided by the Finance Department. Each
25 application shall contain a declaration under penalty of
26 perjury as to the truthfulness of the following:

27 (1) Name and address of applicant and parent,
28 adult son or daughter residing with applicant

1 Compliance with this section shall be a prerequisite to a
2 suit thereon. [See Government Code Section 935(b)].
3 Nothing herein shall permit the filing of a claim or action
4 on behalf of a class or group of taxpayers.

5 (b) If any person is aggrieved by any decision (other
6 than a decision relating to a refund pursuant to Section 9-
7 343 or 9-344 of this Article), deficiency determination,
8 assessment, or administrative ruling of the Tax
9 Administrator; he or she may appeal to the City Manager by
10 filing a notice of appeal with the City Clerk within
11 fourteen (14) days of the date of the decision, deficiency
12 determination, assessment, or administrative ruling of the
13 Tax Administrator which aggrieved the service user or
14 service supplier.

15 (c) The matter shall be scheduled for hearing before
16 an independent hearing officer selected by the City
17 Manager, no more than thirty (30) days from the receipt of
18 the appeal. The appellant shall be served with notice of
19 the time and place of the hearing, as well as any relevant
20 materials, at least five (5) calendar days prior to the
21 hearing. The hearing may be continued from time to time
22 upon mutual consent. At the time of the hearing, the
23 appealing party, the Tax Administrator, and any other
24 interested person may present such relevant evidence as he
25 or she may have relating to the determination from which
26 the appeal is taken.

27 (d) Based upon the submission of such evidence and the
28 review of the City's files, the hearing officer shall issue

1 a written notice and order upholding, modifying or
2 reversing the determination from which the appeal is taken.
3 The notice shall be given within fourteen (14) days after
4 the conclusion of the hearing and shall state the reasons
5 for the decision. The notice shall specify that the
6 decision is final and that any petition for judicial review
7 shall be filed within ninety (90) days from the date of the
8 decision in accordance with Code of Civil Procedure Section
9 1094.6.

10 (e) All notices under this section may be sent by
11 regular mail, postage prepaid, and shall be deemed received
12 on the third calendar day following the date of mailing, as
13 established by a proof of mailing.

14

15 **9-346 No Injunction/Writ of Mandate.**

16 No injunction or writ of mandate or other legal or
17 equitable process shall issue in any suit, action, or
18 proceeding in any court against this City or against any
19 officer of the City to prevent or enjoin the collection
20 under this Article of any tax or any amount of tax required
21 to be collected and/or remitted.

22 **9-347 Notice of changes to ordinance.**

23 If a tax under this Article is added repealed, increased,
24 reduced, or the tax base is changed, the Tax Administrator
25 shall follow the notice requirements of California Public
26 Utilities Code Section 799.

27 \\\

28 \\\

1 **9-348 Future Amendment to Cited Statute.**

2 Unless specifically provided otherwise, any reference to a
3 state or federal statute in this Article shall mean such
4 statute as it may be amended from time to time.

5
6 **9-349 Independent Audit of Tax Collection, Exemption,
7 Remittance, and Expenditure.**

8 The City shall annually verify that the taxes owed under
9 this Article have been properly applied, exempted,
10 collected, and remitted in accordance with this Article,
11 and properly expended according to applicable municipal
12 law. The annual verification shall be performed by a
13 qualified independent third party and the review shall
14 employ reasonable, cost-effective steps to assure
15 compliance, including the use of sampling audits. The
16 verification shall not be required of tax remitters where
17 the cost of the verification may exceed the tax revenues to
18 be reviewed.

19
20 **9-350 Interaction with Prior Tax**

21 (a). Satisfaction of Tax Obligation by Service Users.

22 Any person who pays the tax levied pursuant to Section 9-
23 333 of this Article with respect to any charge for a
24 communication service shall be deemed to have satisfied his
25 or her obligation to pay the tax levied pursuant to
26 Sections 9-70 and 9-75 of this Code with respect to that
27 charge. Likewise, prior to August 1, 2008, any person who
28 pays the tax levied pursuant to Sections 9-70 and 9-75 of

1 this Code with respect to any charge for a service subject
2 to taxation pursuant to this Article shall be deemed to
3 have satisfied his or her obligation to pay the tax levied
4 pursuant to Section 9-333 of this Article with respect to
5 that charge. The intent of this paragraph is to prevent
6 the imposition of multiple taxes upon a single utility
7 charge during the transition period from the prior
8 telephone and video users' tax to the new communication
9 users' tax (which transition period ends August 1, 2008)
10 and to permit communications service providers, during that
11 transition period to satisfy their collection obligations
12 by collecting either tax.

13 (b). Collection of Tax by Service Providers. Service
14 providers shall begin to collect the tax imposed by this
15 Article as soon as feasible after the effective date of the
16 Article, but in no event later than permitted by Section
17 799 of the California Public Utilities Code.

18

19 **9-351 Remedies Cumulative**

20 All remedies and penalties prescribed by this Chapter or which
21 are available under any other provision of law or equity,
22 including but not limited to the California False Claims Act
23 (*Government Code Section 12650 et seq.*) and the California
24 Unfair Practices Act (*Business and Professions Code Section*
25 *17070 et seq.*), are cumulative. The use of one or more remedies
26 by the City shall not bar the use of any other remedy for the
27 purpose of enforcing the provisions of this Chapter.

28 \\\

1 9-352 No Increase in Tax Percentage or Change in Methodology
2 Without Voter Approval

3 (a). Regarding Section 9-333, the City may not increase
4 the tax percentage or change a methodology for calculating the
5 tax so as to result in an increase in a tax imposed on a person,
6 without voter approval.

7 (b) Notwithstanding (a), pursuant to Government Code
8 Section 53750, the City may make the following changes without
9 voter approval:

- 10 1) reduce the percentage rate, and at any time thereafter
11 increase such percentage rate, so long as the subsequent
12 increase does not exceed the rate previously approved by
13 the voters in the enactment of this ordinance;
- 14 2) change the methodology so as to reduce the amount of the
15 tax being levied, and at any time thereafter change the
16 methodology, so long as the subsequent change in
17 methodology does not result in an increase in the amount
18 being levied under the methodology previously approved by
19 the voters in the enactment of this ordinance;
- 20 3) change a methodology or definition so as to avoid or
21 eliminate a discriminatory tax on taxpayers that are
22 similarly situated, so long as the change does not result
23 in an increase in the amount levied on such class of
24 similarly situated taxpayers under the methodology or
25 definition previously approved by the voters in the
26 enactment of this ordinance;

27 \\\

28 \\\

1 4) establish a class of persons that is exempt or excepted
2 from one or more taxes hereunder, and at any time
3 thereafter, discontinue such exemption or exception;
4 5) decide that all or a part of a tax imposed under this
5 Chapter should not be enforced for administrative reasons,
6 and at any time thereafter, decide to enforce the full
7 amount of such tax as previously approved by the voters in
8 the enactment of this ordinance; or,
9 6) establish, and at any time thereafter change, the value
10 and/or apportionment (including a "safe harbor" percentage)
11 of taxable and nontaxable services that are bundled or
12 packaged under a combined charge, in response to changes in
13 the marketing of combined services and the components
14 thereof, or in reevaluating the values thereof [See Section
15 9-334].

16
17 **9-353 Accountability and Use of Tax Proceeds**

18 (a) Proceeds of the taxes collected pursuant to this
19 article shall be used only to public safety, library and
20 park & recreation programs, and for no other purpose.

21 (b) Proceeds shall be maintained in a separate account,
22 the principal and earnings upon which shall be spent only
23 on the purpose set forth in subdivision (a) of this
24 Section.

25 (c) No later than June 30, 2009, and at least annually
26 thereafter, the Finance Director shall file a report with
27 the City Council setting forth: (i) The amount of funds
28 collected and expended and (ii) the status of each project

1 required or authorized to be funded as set forth in
2 subdivision (a) of this Section.

3 **SECTION 2. Effective Date.** This Article shall
4 become effective immediately upon the date that this
5 Ordinance is confirmed and approved by the voters of
6 Inglewood at the Special Municipal Election of February 5,
7 2008.

8 **SECTION 3. Amendment or Repeal.** Article 15 of
9 Chapter 9 of the Inglewood Municipal Code may be repealed
10 or amended by the City Council without a vote of the
11 people. However, as required by Article XIIIC of the
12 California Constitution, voter approval is required for any
13 amendment provision that would increase the rate of any tax
14 levied pursuant to this Ordinance.

15 **SECTION 4. Severability.** If any section, subsection,
16 sentence, clause, phrase, or portion of this Ordinance is
17 for any reason held to be invalid or unenforceable by a
18 court of competent jurisdiction, the remaining portions of
19 this Ordinance shall nonetheless remain in full force and
20 effect. The people hereby declares that they would have
21 adopted each section, subsection, sentence, clause, phrase,
22 or portion of this Ordinance, irrespective of the fact that
23 any one or more sections, subsections, sentences, clauses,
24 phrases, or portions of this Ordinance be declared invalid
25 or unenforceable.

26 **SECTION 5. Execution.** The Mayor is hereby authorized
27 to attest to the adoption of this Ordinance by the voters
28 of the City by signing where indicated below.

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I hereby certify that the foregoing Ordinance was
PASSED, APPROVED and ADOPTED by the people of the City of
Inglewood voting on the 5th day of February, 2008.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

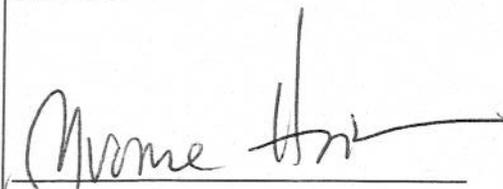
1 services necessary to conduct the Election and to Conduct
2 and canvass the results of the Election.

3 **SECTION 13.** The City shall reimburse the Los
4 Angeles County Registrar of Voters for services performed
5 at the rate specified per registered voter in the City,
6 when the work is completed and upon presentation to the
7 city of a properly approved bill.

8
9 BE IT FURTHER RESOLVED that the City Clerk shall certify to
10 the adoption of this resolution and the same shall be in
11 full force and effect immediately upon adoption.

12
13 Passed, approved and adopted this 11th day of
14 September, 2007.

15 
16 _____
17 ROOSEVELT F. DORN, MAYOR

18
19 ATTEST
20
21 
22 _____
23 YVONNE HORTON, CITY CLERK

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